



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,365	06/29/2001	Frederick Morello	491328-600-006	2229

7590 05/18/2004

Blaney Harper
Jones, Day, Reavis & Pogue
51 Louisiana Ave., N.W.
Washington, DC 20001

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/896,365	MORELLO ET AL.	
	Examiner	Art Unit	
	Yvonne M. Horton	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3,14,15-17 and 20 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #4,962,633 to ALBRECHT et al. Regarding claims 1 and 15, ALBRECHT et al. discloses the use of panel member including a curved central portion (172) having a pair of side walls (170) extending therefrom wherein the side walls end in a pair of complementary wings (W), see the marked attachment from the previous Official Action. Regarding claims 2,3,16 and 17, the curved portion (172) is concave and resembles an arc. In reference to claims 14, 20, and in further regards to claim 15, the wings (W) of ALBRECHT et al. are disposed on opposing sides of the curved central portion (172) and includes a hook portion (HO) on one side and a hem portion (HE) on the other side, see the marked attachment from the previous Official Action.

Claims 1-3,8,9,14,15-17,19 and 20 stand rejected under 35 U.S.C. 102(b) as being anticipated by US #6,282,936 to BLAZLEY. Regarding claims 1 and 15, BLAZLEY discloses the use of panel member including a curved central portion (C) having a pair of side walls (S) extending therefrom wherein the side walls end in a pair of complementary wings (70,71), see the marked attachment. Regarding claims 2,3,16 and 17, the curved portion (C) is concave and resembles an arc. In reference to claims 8,9 and 19, BLAZLEY discloses that the depth of his arc is 300mm which converts to

11.8 1 inches. Hence, the length of the arc of BLAZLEY falls within the requirements of the claims 8,9 and 19. Regarding claims 14, 20, and in further regards to claim 15, the wings (70,71) of BLAZLEY are disposed on opposing sides of the curved central portion (C) and include a hook portion (75) on one side and a hem portion (73) on the other side such that a wing portion of one side of the panel is connected to another wing portion on a second side of an adjacent panel.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4-11, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,962,622 to ALBRECHT et al. As detailed above, ALBRECHT et al. discloses the basic claimed device except for the specifics of arc dimensions in degrees and inches. In reference to claims 4-7 and 18, although ALBRECHT et al. does not disclose specific details of the radius of his arc, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the radius of the arc constitutes the depth of the arc which in turn determines the actual rigidity and strength of the arc itself. Thus, the radius of the arc is an obvious matter of design choice determined by the required or desired amount of rigidity needed for how the panel is intended to be used. For instance, the wider the radius, the arc has less depth and therefor has less rigidity. On the other hand, the smaller the radius, the more the depth of the arc and therefore the more rigid the panel will be. Regarding

claims 8-11 and 19, the length of the radius is also determined by the use of the panel and the desired rigidity the panel is required to be. Hence, the length of the radius is also an obvious matter of design choice. The applicant has disclosed a wide range of degrees for arc radiuses and lengths; however, the applicant has not provided any criticality over any one particularly claimed angle or length. Thus, the selection of the angle would have been an obvious matter of design choice depending upon the environment of which the device is intended to be used. Although ALBRECHT et al. is silent in this regard, the length of the arc dictates the radius of the arc, which in turn determines the rigidity of that portion of the panel.

Claims 4-7, 10, 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6282,936 to BLAZLEY. As detailed above, BLAZLEY discloses the basic claimed device except for the specifics of arc dimensions in degrees and particular inches. In reference to claims 4-7 and 18, although BLAZLEY does not disclose specific details of the radius of his arc, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the radius of the arc constitutes the depth of the arc which in turn determines the actual rigidity and strength of the arc itself. Thus, the radius of the arc is an obvious matter of design choice determined by the required or desired amount of rigidity needed for how the panel is intended to be used. For instance, the wider the radius, the arc has less depth and therefore has less rigidity. On the other hand, the smaller the radius, the more the depth of the arc and therefore the more rigid the panel will be. Regarding claims 8-11 and 19, the length of the radius is also determined by how the panel will be used and

how rigid the panel is required to be. As previously mentioned, the depth of the arc of BLAZLEY is 300mm, which is converted to 11.81 inches. BLAZLEY does not disclose the particular dimensions of 6 inches or 5-8 inches. Although BLAZLEY does not disclosed the claimed arc lengths, the length of the radius is also an obvious matter of design choice. The applicant has disclosed a wide range of degrees of arc radiuses and lengths; however, the applicant has not provided any criticality over any one particularly claimed angle or length. Thus, the selection of the angle would have been an obvious matter of design choice depending upon the environment of which the device is being used. The length of the arc dictates the radius of the arc, which in turn determines the rigidity of that portion of the panel.

Response to Arguments

Applicant's arguments filed 2/14/04 have been fully considered but they are not persuasive.

In response to applicant's argument that the claims were interpreted inconsistently with the specification, the applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. Patentability of the claims is determined solely by the broadest interpretation of that which is presented in the claim language. Thus, clearly in the broadest interpretation, the structures of both ALBRECHT et al. and BLAZLEY, although possibly being a stiffening rib, have a curved central portion with side walls on both sides and wing portions.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the building panel being capable of withstanding increased bending moments) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding the examiner's interpretation being improper, clearly all elements of the claims are being met, as detailed in the rejections above, therefore the rejections are proper.

In response to the applicant's argument that a single reference to support a determination of obviousness is improper absent a sufficient teaching or suggestion in the prior art, although obviousness rejections are set forth using single references both of these references ALBRECHT et al. and BLAZELY both teach clearly suggest the required building panel as claimed. Although, as admitted above, ALBRECHT et al. and BLAZELY are shy of a teaching of length and radius degree dimensions, obviousness infers within a general knowledge of skill in the art that these dimensions are determined according to or by design options. As a matter of fact, BLAZELY details a certain arc length of which is detailed in certain claims. However, as mentioned before, the applicant presents several arc lengths without providing any criticality for one length over the other. Lack of this presentation affirms obviousness of the design intended for specific purposes or options.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703) 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


YMH
May 12, 2004


Carl D. Friedman
Supervisory Patent Examiner
Group 3600